

SECOND REGULAR SESSION

SENATE BILL NO. 1204

93RD GENERAL ASSEMBLY

INTRODUCED BY SENATOR DOUGHERTY.

Read 1st time March 1, 2006, and ordered printed.

TERRY L. SPIELER, Secretary.

5385S.011

AN ACT

To repeal sections 210.127, 210.819, 211.442, 211.444, and 211.453, RSMo, and to enact in lieu thereof five new sections relating to parentage of a child.

Be it enacted by the General Assembly of the State of Missouri, as follows:

Section A. Sections 210.127, 210.819, 211.442, 211.444, and 211.453, RSMo, are repealed and five new sections enacted in lieu thereof, to be known as sections 210.127, 210.819, 211.442, 211.444, and 211.453, to read as follows:

210.127. 1. If the location or identity of the [biological parent or parents] **mother, as defined in section 210.819, or father, as defined in subsection 2 of this section,** of a child in the custody of the division is unknown, the children's division shall utilize all reasonable and effective means available to conduct a diligent search for [the biological parent or parents] **such mother or father** of such child.

2. **For purposes of this section, "father" includes:**

(1) **The presumed father of a child under subsection 1 of section 210.822;**

(2) **The acknowledged father under section 210.823 who has properly served notice on the mother and acknowledged paternity either:**

(a) **Before or within fifteen days of the birth of the child; or**

(b) **Prior to the filing of a petition for termination of parental rights or for adoption;**

(3) **The adjudicated father under sections 210.817 to 210.852; and**

(4) **The putative father of a child who has, before the birth or within fifteen days of the birth of a child, or prior to the filing of a**

EXPLANATION—Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

19 **petition for termination of parental rights or for adoption:**

20 **(a) Registered with the putative father registry an intent to**
21 **declare paternity under section 192.016, RSMo, and**

22 **(b) Filed a parentage action under sections 210.817 to 210.852,**
23 **and properly served notice upon the mother.**

24 **3.** For purposes of this section, "diligent search" means the efforts of the
25 division, or an entity under contract with the division, to locate a [biological
26 parent] **a mother, as defined in section 210.819, or a father, as defined**
27 **in subsection 2 of this section** whose [identity or] location is unknown,
28 initiated as soon as the division is made aware of the existence of such parent,
29 with the search progress reported at each court hearing until the parent is either
30 identified and located or the court excuses further search.

210.819. [The parent and child relationship between child and:]

2 **(1) [The natural mother may be established] Maternity is established**
3 **between a woman and a child by**

4 **(a) Proof of her having given birth to the child[,]; or**

5 **(b) An adjudication of the woman's maternity; or**

6 **(c) As otherwise provided for** under the provisions of sections 210.817
7 to 210.852;

8 **(2) [The natural father may be established] Paternity is established**
9 **between a man and a child when:**

10 **(a) The man is a presumed father, as defined in subsection 1 of**
11 **section 210.822; or**

12 **(b) The man is an acknowledged father under section 210.823; or**

13 **(c) The man is an adjudicated father** under the provisions of sections
14 210.817 to 210.852;

15 **(3) An adoptive parent may be established by proof of adoption.**

211.442. As used in sections 211.442 to 211.487, unless the context clearly
2 indicates otherwise, the following terms mean:

3 **(1) "Child", an individual under eighteen years of age;**

4 **(2) "Minor", any person who has not attained the age of eighteen years;**

5 **(3) "Parent"[, a biological parent or parents of a child, as well as, the**
6 **husband of a natural mother at the time the child was conceived, or a parent or**
7 **parents of a child by adoption, including both the mother and the putative father**
8 **of a child];**

9 **(a) A man or woman who have established a parent and child**

10 relationship with a child as defined by subdivision (4) of section
11 210.817, RSMo, and section 210.819, RSMo;

12 (b) A presumed father of a child under subsection 1 of section
13 210.822, RSMo;

14 (c) The acknowledged father under section 210.823, RSMo;

15 (d) The adjudicated parent under sections 210.817 to 210.852,
16 RSMo; or

17 (e) The putative father of a child who has, before birth or within
18 fifteen days of the birth of a child, or prior to the filing of a petition for
19 termination of parental rights or for adoption:

20 a. Registered with the putative father registry an intent to
21 declare paternity under section 192.016, RSMo; and

22 b. Filed a parentage action under sections 210.817 to 210.852,
23 RSMo, and properly served notice upon the mother.

24 The putative father of a child shall have no legal relationship unless he, prior to
25 the entry of a decree under sections 211.442 to 211.487, has acknowledged the
26 child as his own by affirmatively asserting his paternity.

211.444. 1. The juvenile court may, upon petition of the juvenile officer,
2 the court appointed guardian ad litem, or the court before which a petition
3 for adoption has been filed pursuant to the provisions of chapter 453, RSMo,
4 terminate the rights of a parent or accept the consent to adoption by a
5 parent as defined in subsection 3 of section 211.442, or of a named
6 father, to a child if the court finds that such termination or consent to
7 adoption is in the best interests of the child and the parent has consented in
8 writing to the termination of his or her parental rights or the adoption under
9 section 453.030, RSMo.

10 2. The right to consent or withhold consent to adoption or to the
11 termination of parental rights is waived by a man who is not a parent
12 under section 210.822, RSMo, section 210.823, RSMo, or section
13 211.442. Failure to timely file as required in subsection 3 of section
14 211.442 constitutes a waiver of said rights unless:

15 (1) The person was led to believe through the mother's fraud
16 that:

17 (a) The mother was not pregnant when in fact she was; or

18 (b) The pregnancy was terminated when in fact the baby was
19 born; or

20 (c) After the birth, the child died when in fact the child is alive;
21 and

22 (2) The person upon the discovery of the fraud, satisfied the
23 requirements of subsection 3 of section 211.442, within fifteen days of
24 that discovery.

25 3. A man without the right to consent or withhold consent to
26 termination of parental rights or adoption has no right to intervene in
27 the action for termination of parental rights or to the action for
28 adoption.

29 4. The written consent required by subsection 1 of this section may be
30 executed before or after the institution of the proceedings and shall be
31 acknowledged before a notary public. In lieu of such acknowledgment, the
32 signature of the person giving the written consent shall be witnessed by at least
33 two adult persons who are present at the execution whose signatures and
34 addresses shall be plainly written thereon and who determine and certify that the
35 consent is knowingly and freely given. The two adult witnesses shall not be the
36 prospective parents. The notary public or witnesses shall verify the identity of
37 the party signing the consent.

38 [3.] 5. The written consent required by subsection 1 of this section shall
39 be valid and effective only after the child is at least forty-eight hours old and if
40 it complies with the other requirements of section 453.030, RSMo.

211.453. 1. Service of summons shall be made as in other civil cases in
2 the manner prescribed in section 506.150, RSMo. However, if service cannot be
3 made as prescribed in section 506.150, RSMo, and it is not waived, then the
4 service shall be made by mail or publication as provided in section 506.160,
5 RSMo.

6 2. Persons who shall be summoned and receive a copy of the petition shall
7 include:

8 (1) The [parent] **mother** of the child, [including a putative father who
9 has acknowledged the child as his own by affirmatively asserting his paternity,
10 unless the parent has filed a consent to the termination of parental rights in
11 court] **as defined in section 210.817, RSMo, and section 210.819, RSMo,**
12 **and the father as defined in subsection 2 of section 210.127, RSMo;**

13 (2) The guardian of the person of the child;

14 (3) The person, agency or organization having custody of the child;

15 (4) The foster parent, relative or other person with whom the child has

16 been placed; and

17 (5) Any other person whose presence the court deems necessary.

18 3. **In all cases where the identity of the father is unknown, a**
19 **search of the Missouri putative father registry shall be conducted to**
20 **determine if a man is registered with the putative father registry. If**
21 **such man is discovered, service shall be carried out according to the**
22 **provisions of this section. If no such man is discovered, the court shall**
23 **not require service on an unknown father.** The court shall not require
24 service in the case of a parent whose identity is unknown and cannot be
25 ascertained, or cannot be located, **as determined in section 210.127, RSMo.**
26 4. Any person required to receive summons may waive appearance or
27 service of summons.

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Bill

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